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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/398,170	09/17/1999	RANJIT N. NOTANI	020431-0467	9727

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BAKER & BOTTS LLP
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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/398,170

Applicant(s)

NOTANI, RANJIT N.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-39 remain rejected under 35 U.S.C. 103(a) as being unpatentable over George W. Aljian ("Purchasing Handbook, McGraw-Hill Book Company, 2nd. Ed., 1966) in view of Peter H. Ritchken and Charles S. Tapiero ("Contingent Claims Contracting for Purchasing Decisions in Inventory Management, Operations Research, Vol. 34, No. 6, November-December 1986) and Roden et al. (US Patent No. 6,249,774) as stated in the prior Office action.

In the prior Office action the Examiner has indicated that "the references do not explicitly disclose "determining whether the indicated current buyer demand exceeds a maximum option quantity specified in the option contract; and if the indicated current buyer demand does not exceed the maximum option quantity specified in the option contract, communicating from the buyer computer to the seller computer a request to exercise at least a portion of the option based at least in part on the indicated current buyer demand". The Examiner had taken Official Notice that these steps are old and well known within the management of any type of contract, and in the options art in particular. Therefore, it would have been obvious to one having ordinary skill in the art to include these steps in the references as combined above.

Applicant's representative now challenges the Examiner's Official Notice and requests a submission of a reference.

In response, the Examiner notes that Alijan at page 3-30 states "Buying proper quantity usually includes a formula for purchasing minimum and maximum quantities". The Examiner now provides support for these well-known teachings with the submission of the teachings of Carl Schultz. It is noted that Carl Schultz is directed to the teachings of a modeling take-or-pay contract decision system. Shultz explains on page 2, second paragraph that "the buyer is obligated to purchase between designated high and low quantity limits". Schultz further states that "a typical contract specifies a delivery schedule subject to minimum and maximum production levels and take obligations". Depending on the quantity purchased during a given period the purchaser is informed of a penalty. See the last paragraph of page 2 and the first paragraph of page 3 of Schultz. Schultz further states that "Existing contracts can be continued as originally negotiated, bought out or renegotiated to "buy down" certain terms of the contracts. These steps are appropriate to satisfy forecasted demand requirements of a product. See page 5, the subtitle entitling "Uncertainty".

Thus, checking whether a buyer demand exceeds a maximum option quantity or falls within agreed low and high limits is taught by Schultz. It would have been obvious to one of ordinary skill in the art to note that if the indicated current buyer demand does not exceed the maximum option quantity specified in the option contract, communicating from the buyer computer to the seller computer a request to exercise the at least a portion of the option based at least in part on the indicated current buyer demand as claimed because the current buyer demand falls between the low and high limits.

One of ordinary skill in the art would have turned to Roden et al to use a computer to perform these steps as Roden et al is directed to a contract system between a buyer and a

distributor of goods/services. The “automatically and without user input” steps or functions would have been obvious to one of ordinary skill in the art to do when programming the combined system noted above. The “automatically and without user input” functions would have expedited an acknowledgment to perform a buyer or seller request.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

Application/Control Number: 09/398,170
Art Unit: 3628

Page 5

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for before final communications, (703) 872-9327 for After Final communications and (703) 872-9325 for Customer Service communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP
May 13, 2004


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3628